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THE
Present Case
STATED:

O R,

The OATHS of Allegiance and
Supremacy no Badges

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SLAVERY.

London,
Printed for R. Baldwin. 1689.

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THE Ecclesiastical Jurisdiction of the *Crown of England* having been invaded and broke in upon by the Power of the Court of *Rome*, in K. *Henry the Eight's* time all Foreign Power was abolished, and the Ancient Legal Supremacy restor'd, and by many Additional Acts Corroborated. But all that was done of that kind, in King *Henry the Eight's* time, was undone again in *Queen Mary's*; and therefore in the First year of *Queen Elizabeth's* Reign, an Act of Parliament was made, Entituled *All Ancient Jurisdiction restored to the Crown*. A Repeal of divers Statutes, and Reviver of others: and all foreign Power Abolished: Which Act recites, that whereas in the Reign of R. H. 8. divers good Laws were made and Established, as well for the utter extirpation and putting away of all Usurped and Foreign Powers and Authorities out of this Realm, as also for Restoring and Uniting to the Imperial Crown of this Realm the ancient Jurisdictions, Authorities, Superiorities, and Preheminences to the same of Right belonging and appertaining; by reason whereof the Subjects of this Realm were kept in good order, and disburthened of divers great and intolerable Charges and Exactions, until such time as all the said good Laws and Statutes by one Act of Parliament made in the First and Second years of the Reigns of King Philip and Queen Mary, were clearly repealed and made void; by reason of which Act of Repeal the Subjects of England were eftsoons brought under an Usurped Foreign Power and Authority, and yet remained in that Bondage to their intolerable

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reable

table Charges; and then Enacts, that for the Repressing of the said Usurped Foreign Power, and the restoring of the Rights, Jurisdictions and Preheminences appertaining to the Imperial Crown of this Realm, The said Act made in the First and Second years of the said late King Philip and Queen Mary (except as therein is excepted) be repealed, void, and of none effect.

The said Act of Primo Elizabeth. proceeds, First, to Revive by express words many Statutes that had been made in King Henry the Eight's time, and repealed in Queen Maries; and Secondly, to abolish all foreign Authority in these words; [viz.] And to the intent that all Usurped and Foreign Power and Authority Spiritual and Temporal, may for ever be clearly extinguished, and never to be used or obeyed within this Realm, &c. May it please your Highness that it may be Enacted, That no Foreign Prince, Person, Prelate, Sease, or Potentate, Spiritual or Temporal, shall at any time after the last day of this Session of Parliament, &c., enjoy, or exercise any manner of Power, Jurisdiction, Superiority, Authority, Preheminence or Priviledge, Spiritual or Ecclesiastical within this Realm, &c. but the same shall be clearly abolished out of this Realm, &c. Any Statute, Custom, &c. to the contrary notwithstanding. Thirdly, the said Act restores in the next Paragraph to the Imperial Crown of this Realm, such Jurisdictions, Priviledges, Superiorities, &c. Spiritual and Ecclesiastical, as by any Spiritual or Ecclesiastical Power or Authority had theretofore been, or might lawfully be exercised or used, &c. Fourthly, the Act impowers the Queen to assign Commissioners to exercise Ecclesiastical Jurisdiction. And Fifthly, For the better observation and maintenance of this Act, Imposes upon Ecclesiastical and Temporal Officers and Ministers, &c. the Oath, commonly call'd the Oath of Supremacy, which runs thus; (viz.)

The Oath of SUPREMACY.

I A. B. do utterly testify and declare in my Conscience, that the Queen's Highness is the only Supream Gover-nour of this Realm, and of all other her Highness's Domi-nions and Countries, as well in all Spiritual or Ecclesiastical Things and Causes as Temporal; and that no Foreign Prince, Person, Prelate, State, or Potentate hath or ought to have any Jurisdiction, Power, Superiority, Prebeminence or Au-thority Ecclesiastical or Spiritual within this Realm; And therefore I do utterly renounce and forsake all Foreign Ju-risdictions, Powers, Superiorities, and Authorities, and do promise that from henceforth I shall bear Faith and true Allegiance to the Queen's Highness, her Heirs and Lawful Successours; and to my Power shall Assist and De-fend all Jurisdictions, Priviledges, Prebeminencies and Authorities, Granted or belonging to the Queen's Highness, her Heirs and Successours, or united and annexed to the Imperial Crown of this Realm. So help me God, and by the Contents of this Book.

It cannot but be obvious to to every Impartial pursuer of the Statute, especially if he have the least knowledge of what Condition the Government of this Nation was reduced to by Papal Encroachments and Usurpations. That the Makers of this Law, and the Sence of this Oath, was no other in general, than that the People of this Realm should bear Faith and true Allegiance, even in Matters relating to Ecclesiastical Jurisdiction, to the Queen's Highness, her Heirs and Lawful Successours, and not to the Pope or any foreign pretended Jurisdiction.

What the several ' Jurisdictions, Priviledges, Preheminences and Authorities Granted or belonging to the Queen, her Heirs and Successours, are in particular ; and what the Jurisdictions, Priviledges, Preheminences and Authorities United and Annexed to the Imperial Crown of this Realm, are in particular, is not material here to be discoursed of ; though the several Statutes made in ' King Henry the Eight's time, and King Edward the Sixth's, and revived in Queen Elizabeth's, will unfold many of them ; and clear the distinction, which the *O A T H* makes, betwixt ' Authorities Granted or belonging to the King, and Authorities united and annexed to the Imperial Crown : and Mr. Prynne's History of the Pope's intolerable Usurpations upon the Liberties of the Kings and Subjects of *England* and *Ireland* ; together with ' Sir Roger Twisden's Historical Vindication of the Church of *England* in point of Schism, will in a great measure acquaint the Curious how matters stood with us here, with respect to Church-Government, before the Pope had wrested the Ecclesiastical Jurisdiction almost wholly out of the hands of our Kings, our Parliaments and Courts of Justice. In short, those Jurisdictions, &c. are such as the Ancient Laws, Customs, and Usages of the Realm, or latter Acts of Parliament have Created, Given, Limited and Directed.

The Makers of this Law did not design to impose upon the People of *England* any new Terms of Allegiance, but to secure the old ones, Exclusive of any Pretences of the Pope or See of *Rome*.

Nor are there any words in this *Oath* more strong, more binding to Duty and Allegiance, than are words which the old *Oath of Fealty* is conceived in ; which all men were anciently obliged, and may yet be required to take to the King in the Court-Leet at twelve years of Age ; which runs thus ; (viz.)

Yours

You shall swear that from this day forward you shall be true and Faithful to our Sovereign Lord King James and his Heirs: And faith and truth shall bear of life and limb and terrene Honour, And you shall not know nor bear of any ill or damage intended to him, that you shall not defend. So help you Almighty God.

This is as full and comprehensive, as the Oath of Supremacy; I do promise that I shall bear faith and true Allegiance to the Queen's Highness, her Heirs and Lawful Successors, and to my power shall assist and defend all Jurisdictions, &c. So that the true sense and meaning of the Oath of Supremacy, is this; viz. I will be true and Faithful to our Sovereign Lord the King, his Heirs and Lawful Successors, and will to my power Assist and defend all his Rights, notwithstanding any pretence made by the Pope or any other Foreign Power to exercise Jurisdiction within the Realm, all which Foreign Power I utterly renounce in matters Ecclesiastical as well as Temporal.

The Oath of Allegiance is appointed by the Act of 3. Jac. I. Chap. 4. Entituled, *An Act for discovering and repressing of Popish Recusants.* It recites the daily experiences that many of his Majesty's Subjects, that adhere in their hearts to the Popish Religion, by the Infestation drawn from thence, by the wicked and devilish Counsel of Jesuits, Seminaries, and other like persons dangerous to the Church and State, are so far perverted in the point of their Loyalities and due Allegiance to the King's Majesty, and the Crown of England, as they are ready to entertain and execute any Treasonable Conspiracies and Practices: And for the Better Tryal how his Majesty's Subjects stand affected in point of their Loyalities and due obedience, Enacts that it shall be Lawful for any Bishop in his Diocese, or any two Justices of the Peace, whereof one to be of the Quorum, within the Limits of their Jurisdiction, out of the Sessions, to require any person of the age of eighteen Years or above, which shall be convicted

vict or indicted of Recusancy, other then Noblemen, &c. or which shall not have received the Sacrament twice within the Year then next past, or any person passing in or through the Country, unknown, that being examined upon Oath shall confess, or not deny him or her self to be a Recusant, and to take the Oath therein after expressed; viz. &c. the Oath of Allegiance.

So that by the Occasion of imposing the Oath, and by the appointing it to be tendred only to Papists or suspected Papists, it is apparent that the Design of the Law-makers was to detect such persons as were perverted, or in danger to be perverted in their Loyalty, by Infection drawn from the Popish Religion.

The form of the Oath makes it yet more evident, being wholly levell'd against any opinion of the Lawfulness of deposing, the King or practising any Treason against him, upon pretence of his being Excommunicated or deprived by the Pope, And against any opinion of the Pope's power to discharge Subjects from their Oaths of Fidelity to their Princes. It runs this; viz.

I A. B. Do truly and sincerely profess, testify and declare in my Conscience before God and the World, that our Sovereign Lord, King James, is Lawful and Rightful King of this Realm, and of all his Majesty's Dominions and Countries: And that the Pope, neither of himself, nor by any authority of the Church or See of Rome, or by any other means, with any other, hath any power or authority to depose the King, or to dispose any of his Majesty's Kingdoms or Dominions, or to Authorize any Foreign Prince to invade or annoy him, or his Countries, or to discharge any of his Subjects of their Allegiance or Obedience to his Majesty, or to give licence or leave to any of them to bear arms, raise tumults, or to offer any violence or hurt to his Majesty's Royal Person, State or Government, or to any of his Majesty's Subjects within his Majesty's Dominions.

Also

And I do swear from my heart, that notwithstanding any Declaration or Sentence of Excommunication, or deprivation made or granted, or to be made or granted by the Pope or his Successors, or by any Authority derived or pretended to be derived from him or his See, against the said King, his Heirs and Successors, or any absolution of the said Subjects from their Obedience, I will bear Faith and true Allegiance to his Majesty, his Heirs and Successors, and him and them will defend to the Uttermost of my power against all Conspiracies and attempts whatsoever, which shall be made against his or their Persons, their Crown and Dignity, by reason or colour of any such Sentence or Declaration, or otherwise, and will do my best endeavour to disclose and make known unto his Majesty, his Heirs, and Successors, All Treasons and Traitorous Conspiracies, which I shall know or hear of to be against him, or any of them.

And I do further Swear, that I do from my heart abhor and detest and abjure, as impious and heretical, this damnable Doctrine and position, That Princes, which be Excommunicated or deprived by the Pope, may be deposed or murdered by their Subjects, or any other whatsoever.

And I do believe, and in Conscience am persuaded, that neither the Pope nor any Person whatsoever, hath Power, to absolve me of this Oath, or any part thereof, which I acknowledge by good and Lawful authority to be Lawfully administered unto me, and I do renounce all Pardons and Dispensations to the contrary. And all these things I do plainly and sincerely acknowledge and swear, according to these express words by me spoken, and according to the plain and common sense and understanding of the same words, without any Equivocation, or mental Evasion; or secret reservation whatsoever. And I do make this Recognition and acknowledgement heartily, willingly and truly, upon the true Faith of a Christian. So help me God.

And the Statute of 7 Jacobi Cap. 6. Recites, that Whereas by a Statute made in the third year of the said King's Reign, the form of an Oath to be ministred and given to

to certain persons in the same Act mentioned, is limited and prescribed, tending only to the declaration of such duty, as every true and well affected Subject, not only by bond of Allegiance, but also by the Commandment of Almighty God, ought to bear to the King, his Heirs and Successors; Which Oath such are *infected with Papish Superstition* do oppugne with many false and unsound Arguments, the just defence whereof the King had therefore undertaken and worthily performed, to the great contentment of all his Subjects, notwithstanding the gainsayings of contentious Adversaries. And to shew how greatly the King's Loyal Subjects do approve the said Oath, they beseech his Majesty, that the said Oath be administered to all his Subjects.

The Pope, and Authority of the See of Rome run through the first Paragraph; Notwithstanding any Declaration, or Sentence of Excommunication, &c. Governs the second Paragraph: Excommunicated and deprived the Pope are the material words in the third Paragraph. The fourth is added in *Majorum causelam*, in opposition to the Papish Doctrine of Dispensing with Oaths, Absolving Subjects from their Allegiance, Equivocations, Mental Evasions, &c.

So that as the *Oath of Supremacy* did but enforce the Ancient *Oath of Fealty*, with an acknowledgement of the Queen's supreme Authority in Ecclesiastical Causes and things, as well as Temporal, and a renunciation of all Foreign Jurisdictions; so the *Oath of Allegiance* does but enforce the same *Old Oath of Fealty*, by obliging the Subjects of England expressly to disowne any Lawful Authority in the Pope or See of Rome to Depose, invade or annoy the King, his Dominions or Subjects. And notwithstanding any Sentence of Excommunication, Deprivation, &c. by the Pope, &c. to bear Faith and true Allegiance to the King, his Heirs and Lawful Successors; And to Abjure that Position, that it is Lawful to Depose Princes that are Excommunicated or Deprived by the Pope.

Whatever

Whatever is added, is either *Oath* over and above what was express in the *Old Oath of Fealty*, is but as *Explanatory* of it, and Branching it out into such particulars, as time and occasion required.

So that the *Oaths of Supremacy and Allegiance* not having altered the *Terms of Allegiance*, due from the People of England to their Princes, if their Princes by *ancient Laws of the Realm*, and by the *practice* of our *Forefathers*, were liable to be *Deposed* by the *great Councils* of the *Nation*, for *mal-administration, Oppressions, and other Exorbitancies*, for not keeping their *Coronation-Oaths*, for *Insufficiency to Govern, &c.* then they continue still liable to be *deposed* in like manner, the said *Oaths, or any obligation contracted thereby, notwithstanding.*

For the Practice of former times, I shall begin with a very Antient President in the Kingdom of the *West-Saxons*. (viz.)

Cudred King of West-Saxony being dead, *Sigebert his Kinsman* Succeeded him in that Kingdom, & held it but a small time; for being puffed up with *Pride* by the Successes of King *Cudred his Predecessor*, he grew insolent, and became intolerable to his People. And when he evil entreated them all manner of ways,

Cudredo Rege West-Saxise defuncto, Sigebertus Cognatus ejus sibi in eodem Regno successit; brevi tamen tempore Regnum tenens, nam ex Cudredi Regis Precessoris sui eventibus tunc factus, & Insolens Intolerabilis suis fuit cum autem

and either wrested the laws for his own ends, or eluded them for his own advantage ; Cumba one of his chief Officers, at the request of the whole People, intimated their Complaints to the Savage King. And because he persuaded the King to govern his People more mildly, and that laying aside his barbarity, he would endeavour to appear acceptable to God and man ; the King immediately Commanded him to be put to death, and encreasing his Tyranny, became more cruel and intolerable than before : whereupon in the beginning of the Second year of his Reign, because he was arriv'd to an incorrigible pitch of Pride and Wickedness, the NOBLES and the PEOPLE OF THE WHOLE KINGDOM Assembled together, and upon MATURE DELIBERATION, did by UNANIMOUS CONSENT OF THEM ALL, drive him out of the King-

eos modis omnibus male tractaret, legesque vel ad commodum suum depravaret, vel pro commodo suo devitaret, Cumba Consul ejus Nobilissimus prece totius populi Regi fero eorum querimonias intimavit. Et quia ipse Regi suaserat, ut tenius Populum suum Regeret, & inhumanitate deposita Deo & hominibus amabilis appareret, Rex cum impia nece mox interfici jubens, populo saevior & intolerabilior quam prius suam tyrannidem augmentavit, unde in principio secundi Annis Regni sui cum incorrigibilis superbiæ & nequitiae esset, Congregati sunt PROCERES & POPULUS totius REGNI & eum PROVIDA DELIBERATIONE a Regno UNANIMI CONSENTE OMNIUM expellebant. Cu-

dom,

dom. In whose stead they chose *Kenwolph* an Excellent Youth, and of the Royal Blood, to be King over the People and Kingdom of the *West-Saxons*. *Collect.* p. 769, 770. *ibid.* p. 795, 796.

jus Loco Kenwolfum favorem egregium de Regia stipe oriundum, in Regem super Populum & Regnum West-Saxie elegerunt. Collect. 769, 770. *ibidem*, p. 795, 796.

This Deposition of King *Sigebert* appears to have been done in a formal and orderly manner; viz. in a Convention of the *Proceres* and the *Populus totius Regni*; and it was done *providâ deliberatione & unanimi Omnimis Consensu*, and consequently was not an Act of *Heat*, *Rebellion*, or *Tumultuary Insurrection* of the People; But was what the whole Nation apprehended to be *Legal*, *Just*, and according to the *Constitution* of their *Government*, and no breach of their *Oaths of Allegiance*.

Nor have we any reason to wonder that the *English Nation* should free themselves in such a manner from Oppression, if we consider that by an Ancient Positive Law Enacted in *K. Edw.* the *Conf.* time, and confirmed by *William the Conqueror*, the Kings of *England* are liable to be deposed, if they turn *Tyrants*.

The King, because he is the Vicar of the Supreme King, is constituted to this end and purpose, that he may govern his Earthly Kingdom and the People of the Lord, and especially to Govern and Reverence God's Holy Church, and defend it from injuries, and root out, destroy, and wholly to extirpate all wrong-doers. Which if he do not perform, **HE SHALL NOT RETAIN SO MUCH AS THE NAME OF A KING.** And a little after; The King must Act all things according to Law, and by the Judgment of the Proceres Regni. For Right and Justice ought to Reign in the Realm rather than a perverse Will. It is the Law that makes Right; But Wilfulness, Vio-

Rex autem, quia Vicarius summi Regis est, ad hoc est constitutus, ut Regnum terrenum & Populum Domini, & super omnia familiam veneretur Ecclesiam ejus & regat, & ab injuriosis defendat, & maleficos ab ea evellat & destruat, & penitus dispergit. Quod nisi fecerit, nec nomen Regis in eo constabit. Et paulo post; Debet Rex omnia recte facere in Regno, & per Iudicium Procerum Regni. Debet enim Ius & Justitia magis regnare in Regno, quam voluntas prava. Lex est semper quod Ius facit, voluntas autem, Violentia & Vincere est Ius. Debet vero Rex Deum timere super omnia & diligere, & mandata eius per totum Regnum suum servare. Debet etiam sanctam Ecclesiam Regni sui cum omni- lence

lence and Force is not Right. The King ought above all things to fear and love God, and to keep his Commandments throughout his Kingdom. He ought also to preserve, to cherish, maintain, govern and defend against its Adversaries, The Church within his Kingdom entirely and in all freedom, according to the Constitutions of the Fathers and of his Predecessors, that God may be honoured above all things, and always be had before men eyes. He ought also to set up good Laws and approv'd Customs, and to abolish evil ones, and putt them away in his Kingdom. He ought to do right Judgment in his Kingdom, and maintain Justice by Advice of the Proceres Re-

ni integritate & libertate
juxta Constitutiones Patrum
& Praedecessorum servare,
fodere, manutinere, regere,
& contra inimicos defende-
re, ita ut Deus pro ceteris
benoretur, & præ oculis
semper habeatur. Debet en-
tiam bonas Leges & Con-
suetudines approbatas eri-
gere, peccatis autem delere,
& omnes à Regno deponere.
Debet Iudicium Rectum in
Regno suo facere, & Justi-
tiam per Confidium Procerum
Regni sui tenere. Ita verâ
debet omnia Rex in proprio
personâ, inspectis & tattis
sacrosanctis Evangelii, &

guis sui. All these things the King, in proper Person, looking upon and touching the Holy Gospels, and upon the Holy and Sacred Reliques, must swear in the presence of his People and Clergy to do, before he be crown'd by the Archbishops and Bishops of the Kingdom. *Lamb. of the Ancient Laws of England*, pag.

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super sacras & sanctas reliquias coram Regno & Sacerdotio & Clero jurare antequam ab Archiepiscopis & Episcopis Regni Coronetur.
Lamb. de Priscis Anglo-rum Legibus, p. 142.

Another instance of the *Deposition of a King of England*, subsequent to this Law, we find in King *John's* time, whose *Oppressions* and *Tyrannical Government* our Histories are full of. Of which take this following Account out of a very Ancient Historian.

Whereas the said *John* had sworn solemnly at his Coronation, as the manner is, that he would preserve the Rights and Usages of the Church and Realm of

Cum præfatus Johannes in Coronatione sua solenniter prout moris est jurasset, se Jura & Consuetudines Ecclesiæ & Regni Angliæ conservaturum, contra juramen England,

England, yet contrary to his Oath, he subjected, as far as in him lay, the Kingdom of England, which has always been free, and made it tributary to the Pope, without the Advice and Consent of his Barons; subverting good Customs, and introducing evil ones, endeavouring by many oppressions, and many ways to enslave both the Church and the Realm, which oppressions you know better than I, as having felt them by manifold Experience. For which Causes, when after many applications made,

War was waged against him by his Barons, at last, amongst other things, it was agreed, with his express consent, that in case the said John should

tum suum absque consilio vel consensu Baronum suorum idem Regnum, quod semper fuit Liberum, quantum in ipso fuit, Domino Pape Subjicit, & fecit tributarium, bonas consuetudines subvertens, malas inducens, trans Ecclesiam quam Regnum multes oppressionibus multesque modes student ancellare, quas oppressiones vos melius nostis, quam nos, ut qui eas Familiari sensitis Experimento. Pro quibus, cum post multas requisitiones guerra mota esset contra ipsum a Baronibus suis, tandem inter cetera de ejus expresso consensu it a convenit, ut si idem Johannes ad flagitiam prima rediret, ipse Baronet ab ejus Fidelitate recederent, nunquam ad eum post modum rever- sura, Verum ipse nihilominus, the Barons should be minus paucis diebus Evolu-

at Liberty to recede from tis, fecit novissima sua p^t their Allegiance to him, ne- jora prioribus, studens Ba- ver to return to him more. rones suos non tantum oppri- But he, after a few days, mere, sed potius penitus made his latter end worse exterminare. Qui DE than his beginning, endea- COMMUNI REGNI vouring not only to oppress COUNCIL & APPROBATION ipsum his Barons, but wholly to exterminate them; who therefore in a GENERAL Regno Judicantes indignum, ASSEMBLY and with the nos in Regem & Dominum APPROBATION of ALL Elegerunt. Collect. 1868. THE REALM, adjudging 1869: Chron. W. Thorn: him unworthy to be King, CHOSE Us for their Lord Lewis his Letter to the and King. Collect. p. 1868, Abbot of St. Austin, Can- 1869. Chron. W. Thorn. terbury.

The next Instance shall be that of King Edward the Second: the Record of whose Deposition, if it were extant, would probably disclose all the legal Formalities that were then accounted proper for the deposing an Unjust, Oppressive King: But they were cancelled and imbezzled (as is hightly probable from Rastal's Stat. pag. 170, 171. compard with the Articles exhibited in Parliament against King Richard the Second, of which hereafter) in King Richard the Second's time, and by his Order: Yet the Articles themselves are preserv'd in the Collect. And are as followeth; viz.

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Accorde

Accorde est que Sire Edward Fitz, aîné du Roy est le Gouvernement du Royalme & soit Roy Couronne, pur les causes que s'ensuert.

1. Pur ceo que la person le Roy n'est pas suffisant de Governer, Car en tout son temps il ad estre mené & gouverné per autre que ly ont malavaisement conseilllez, à deshonour de ly & destruction de Sainte Eglise, & de tout son People sans ceo que il le voulust veer ou conyster, à quel il fuit bon ou malvays pour medie mettre, ou faire le voulust quant il fuit requis par les Grants & sages de son Royalme, ou souffrir que amende fust faite.

2. Item, Par son temps s'ne le pouuet donez à bon Conseil, ne le croire, ne à bon Gouvernement de son Royalme, mes se ad done tous Jours as oppriations & occupations nient convenables, entreliezant l'eglise des fiefs & seignies de son Royalme.

3. Item, Par defaut de bon gouvernement ad il perdu le Royalme d'Eſſecce & autres terres & seigneuries en Gascoyne & Hyrland, les quels son Pere le laisza en paix & amitié au Ruy de France, & des autres Grants.

It is accorded that Prince Edward, the King's eldest Son, shall have the Government of the Kingdom, and be crowned King for the Causes following.

1. For that the person of the King is insufficient to govern; for that during his whole Reign he has been led and governed by others, who have given him Evil Counsel, to his Dishonour and the destruction of Holy Church, and of all his People; he being unwilling to consider or know what was good or evil, or to provide remedy even when it was required of him by the Great and Wise Men of his Realm, or suffer any to be made.

2. Also, during all his time, he would neither hearken to, nor believe good Counsel, nor apply himself to the good Government of his Realm, but hath always given himself over to Things and Occupations altogether inconvenient, omitting in the mean time the necessary Affairs and busyness of the Kingdom.

3. Also, For want of good government, he hath lost the Kingdom of Scotland, and other Lands and Territories in Gascoyne and Ireland, which his Father left him in peace and friendship with the French King,

4. Item, Par sa fierté & qualte & par mauvais Counsel aid il destruit Saint Esglise, & les personnes de Saint Esglise tenus en prison les uns: & les autres en distresse, & auxcynx plusors grants & nobles de sa terre my à honteuse mort, enprisonnes, exiles & desheritez.

5. Item, Là on il est tenu par son serment à faire droit à toute il ne l' ad pas volu faire, pur son propre profit & covetise de ly, & de ces mauvais conseillers, que occit este pres de ly. Ne ad garde les autres points del serment qu' il fist à son Coronement, si come il fust tenus.

6. Item, Il deguerpist son Royaume & fist tant come en ly fist que son Royaume & son People fust perdue, & que pris est; pur la cruauté de ly & defaute de sa personne il est trouve incorrigible jauant espérance de amendment, les queuns choses sont si notoires, que ilz ne peuvent estre desdites.

For these Causes, De Consilio & Assensu omnium Prelatorum & Comitum & Baronum & iuris Communis Regni Amotus est à Regimine Regni. [Apolog. Ade de Orleton, Collect. p. 2765, 2766.]

and with many other Grandees.

4. Also, By his Pride and Arrogance and Evil Counsel, he hath destroyed Holy Church, & imprisoning some persons thereof, and put others in distress. And also he hath put to a shameful death, imprisoned and disinherited many of the Great Men, and Nobles of the Land.

5. Also, Whereas he is bound by his Oath to administer Justice to all, he would not do it, through his own Covetousness, and that of Evil Counsellors, that were about him; neither hath he kept the other Points of the Oath, which he took at his Coronation, as he was bound.

6. Also, He hath wasted his Kingdom, and did what in him lay, that his Realm and People shoulde be destroy'd; and, which is worse, by his Cruelty and personal Failings or Defects he is found to be incorrigible, and past all hopes of amendment. All which things are so notorious, that they cannot be denied.

For these Causes, by Advice and Assent of all the Prelates, Earls and Barons, and of the whole Commonalty of the Kingdom, he was deposed from the Government. [Apology of Adam de Orleton, Collect. p. 2765, 2766.]

These

These Proceedings against King *Edward the Second* are no-where extant but in that Author. Which is the less to be wondred at, if we consider, that in *King Richard the Second's* time the King's Parastical Court-favourites so influenced the Judges; That to the Question, *How he was to be punished, that moved in the Parliament, that the Statute should be sent for*, whereby *Edward, the Son of King Edward, was another time endited in the Parliament*; They answered, *That as well be that moved, as the other who by force of the same motion brought the said Statute into the Parliament House, be as criminous and Traytors worthy to be punished.* V. *Rastall's Statutes, 170, 171.* (Tho for that and other Extravagant, Pernicious and Treasonable Opinions delivered, those Judges were severely punished, as is notoriously known.) And also, That it was afterwards one Article of Impeachment against *King Richard the Second, That he had cancelled and razed sundry Records.*

In *King Richard the Second's* time many Animosities arose from time to time betwixt him and his Parliaments; Inso much, that in the 11th year of his Reign, the Parliament then sitting at *London*, the King absented himself from them, and stayed at *Eltham*, refusing to come at them, and join with them in the Publick Affairs: upon which occasion the *Lords and Commons* sent Messengers to him with an *Address*; which the Historian *H. Knighton* sets forth at large, and which I will here give the Reader a transcript of at large, because it will afford many useful Inferences and Observations.

*Salabri igitur usi consilio mi-
serunt, de Communi Assensu to-
tius Parliamenti Dominum Tho-
mam de Wodestoke, Duxem
Glocestrie, & Thomam de Ar-
rundell, Episcopum Elyensem,
ad Regem apud Eltham, qui sa-
lutarent eum ex parte Procerum &
Comunium Parliamenti sui, sub
tali sensu verborum ei referentes
vota eorum.*

Wherefore taking wholsome Advice, they sent by common Assent of the whole Parliament, the Lord *Thomas de Woodstock*, Duke of *Glocester*, and *Thomas de Arundell* Bishop of *Ely*, to the King, to *Eltham*, to salute him on behalf of the *Lords and Commons* of his Parliament, who express'd their Desires to the King to this effect.

Domine Rex, Proceres & Domini atque totus populus communis Parliamenti vestri, cum humilitate subiectione se commendans Excellentissimo Regalis Dignitatis vestre, cupientes prosperum iter invicibilis honoris vestri contra iniuriam potentiam, & validissimum vinculum pacis & dilectionis cordis vestri erga subditos vestros, in augmentum commodi vestri, erga Deum, & salarem animalium vestre, & ad inedibilem consolationem totius populi vestri, quem regitis: Ex quorum parte haec vobis intimamus; Quod ex antiquo Statuto habemus, & Consuetudine laudabilis & approbata, cuius contrarietati dici non vallebit, quod Rex noster conuocare potest. Dominos & Proceres Regni atque Communes semel in anno ad Parliamentum suum, tanquam ad summam curiam totius Regni, in qua omnis equitas relucere deberet ab quoque quolibet scrupulositate vel nota, tanquam Sol in ascensu meridiei, ubi pauperes & divites pro refrigerio tranquillatis & pacis, & repulsione injuriarum reficiuntur infallibile querere possent, ac etiam errata Regni Reformatione, & de Statu & Gubernatione Regis & Regni cum sapientiore confilio tractare, & ut iniurie Regis & Regni interfecti & hostes exirenti defruantur & repellantur, quomodo convenientius & honorificentius fieri poterit cum Salutari tractari in eo disponere & pra-

Sir, The Lords, and all the Commons of your Parliament, have themselves commended to your most Excellent Majesty, desiring the success of your Invincible Honour against the Power of your Enemies, and a most firm bond of Peace and Love in your heart towards your Subjects, for your Good Godwards, and the Good of your Soul, and to the unspeakable comfort of all your People whom you govern: On whose behalf we intimate these things to you; That it appears to us by an ancient Statute, and by laudable and approved Usage, which cannot be denied, that our King can call together the Peers of the Realm and the Commons once a year to his Parliament, as to the Supreme Court of the whole Kingdom, in which all Right & Justice ought to shaine forth without any doubt, or stain, as the Sun at Noon-day, where Poor and Rich may find an infallible Refuge, to enjoy the refreshments of Tranquillity and Peace, and for repelling of Injuries; where also Errors in Government are to be reformed, and the State and Government of King and Kingdom treated upon by sage Advice, and the destroying and repelling of both intestine and foreign Enemies to the King and Kingdom, with most Convenience and Honour,

videre

videre; qualiter queque onera incum-
bentia Regi & Regno levius ad adi-
am communis supportari patent. Vi-
detur estant iis, quod ex quo ono-
ra supportant. incumbentes, habent
eiam supervidere qualiter & per ques-
torum bona & catalla expendantur.
Dicunt etiam quod habent ex Anti-
quo Statuto, quod si Rex a Par-
liamento suo se alienaverit sua spou-
ste, non aliquā infirmitate, aut ali-
quā alia de causa necessitatis, sed
per inmoderatam voluntatem pro-
verbū se subtraherit per absensem
temporis quadragesima diuum, con-
quā de vexatione populi sui & gra-
tibus eorum expensis non coram;
vocare licet omnibus & singulis
eorum dispeſe domigenio Regis, redi-
re ad patriam, & unicuique eorum
in patriam suam redire: Et iam
vix ex longissimo tempore absentias,
& quā de causa recessus, venire re-
quidit. Ad hanc Rex, Jam plane
confidamus, quod populus noster at-
que alienigenae inuidus resisteret at-
que contra nos interficeret; sed
de in eis infestatione inuidus no-
bis non videtur, quia cognatum
noster est Regis Francie,
& ab eo consilium & excellum
petere contum. infidientes, id nos
ei submittere possidis quā su-
cumberet subditis noscitis. Ad hanc
ihi responderunt, Non est hoc re-
bus sanum consilium, sed magis due-
cens ad inuidabilem detractionem &
mam Regis Francie capitatis. in-

may be debated upon, and pro-
vided for; as also in what man-
ner the Charges incumbent up-
on the King, and Kingdom may
be born with most ease to the
Commonalty. They conceive
likewise, that since they bear the
incumbent Charges, it concerns
them to inspect how and by
whom their Goods and Chattels
are expended. They say also,
that it appears to them by an an-
cient Statute, that if the King ab-
sent himself from his Parliament
voluntarily, not by reason of
sickness, or for any other necessa-
ry cause, but through an inordi-
nate will, shall wantonly absent
himself by the space of forty days,
as not regarding the vexation of
his People, and their great Ex-
pences, it shall then be lawful to
all and Singular of them to re-
turn to their own homes without
the King's leave: And you have
now been longer absent, and
have refused to come to them,
for what cause they know not.
Then said the King, I now plainly
see that my People and the Com-
mons design to oppose me with
force, and are about to make an
Insurrection against me: And if
I be so infested, I think the best
course I can take will be to
my Cousin the King of France, and
ask his Advice, and pray in Aid of
him against those that waylay me,
amicus.

inus vester est, & Regni vestri
adversarius per maximus, & si in
terram Regni vestri pedem fige-
ret potius, vos spoliare laboraret
& Regnum vestrum invadere,
vosque a sublimitate Regalis solii
expellere, quam vobis aliquate-
nus manus adjutrices cum favo-
re apponere; si, quod absit, ejus
suffragio quandoque indigeretis.
*Ad memoriam igitur revocetis, quati-
ter avus vester Edwardus tertius R^ex,
& similiter pater Edwardus Prin-
ceps nomine ejus in sudore & angustiis
in quinque tempore sua per innumerabi-
les labores in frigore & calore cer-
taverunt indefesse pro conquisitione
Regni Francie, quod eis iure her-
editario attinebat, & vobis per suc-
cessionem post eos. Reminiscamini
quoniam qualiter Domini Regni &
Proceres atque Communes innumerabi-
les tam de Regno Anglie quam
Francie, Reges quoque & Domini de
aliis Regnis atque populi innumerabi-
les in Guerrâ illâ mortem & mor-
tis periculum sustinuerunt, bona quo-
que & catalla ineftimablia & the-
sauros innumerabiles pro sustentatio-
ne hujus Guerre, Communes Regni
hujus indefesse effuderunt. Et quod
gravissimum dolendum est, jam in diebus
vestris tanta onera iis imposita pro
Guerris vestris sustinendis, suppor-
taverunt, quod ad tantam pauperiem
incredibilem deducunt sunt, quod nec
reditus suos pro suis tenementis sol-
vare possunt, neq; Regi subvenire, nec*

and rather to submit my self to Him,
than be foil'd by my own Subjects.
To which they reply'd, That Coun-
sel is not for your good, but will inc-
itably tend to your ruine; for the
King of France is your capital En-
emy, and the greatest Adversary that
your Kingdom has; and if he should
set his foot within your Kingdom, he
would rather endeavour to prey up-
on you, and invade your Realm, and
to depose you from your Royal Dign-
ity, than afford you any Assistance,
if, which God forbid, you should
stand in need of his help. Call to
mind therefore, how your Grand-
father King Edward III. and
your Father Prince Edward for
him, fought indefatigably in
sweat and sorrow all their days;
and went through innumerable
hardships of cold and heat, to
acquire the Kingdom of France,
which by hereditary Right ap-
pertain'd to Them, and does now
to You by Succession after them.
Remember likewise, how innu-
merable Lords and Commons of
both Realms, and Kings and
Gentlemen of other Kingdoms;
and People innumerable, perish-
ed, or hazarded perishing, in that
War; and that the Commons
of this Realm pour'd out Goods
of inestimable value, and innu-
merable Sums of Money, for the
carrying on of that same War;
and, which is more to be lamenta-
tive

uite necessaria sibi ipsis ministrare, & depauperatur Regia Potestas, & Dominorum Regni, & magnatum infelicitas adducitur, atque totius populi debilitas. Nam Rex depauperari negat, qui divitem habet populum; nec deves esse potest, qui pauperes habebat communes. Et mala hec omnia redendant non solam Regi, sed & omnibus & singulis Dominis & Proceribus Regni, unicuique in suo gradu. Et hec omnia eveniunt per iniquos ministros Regis, qui male gubernaverunt Regem & Regnum usque in presens. Et nisi manus cattin apponamus adiutrices, & remedii fulcimentum adhibeamus, Regnum Anglie dolose attenuabitur tempore, quo minus opingatur. Sed & unum aliud de nuncio nostro superpet nobis ex parte populi vestri vobis intimare. Habent enim EX ANTIQUO STATUTO, & de facto non longe retroactis temporibus experienter quod diligenter est habito, si Rex, EX MALIGNO CONSILIO QUOCUNQUE, vel INEPTA CONTEMPTU, seu PROTERVA VOLUNTATE SINGULARI, aut QUVIS MODO IRREGULARI, se alienaverit a populo suo, nec voluntaria per Iuram Regni & Statuta ac laudabiles Ordinationes cum salubri confilio Dominorum & Procerum

ted, they have now in your days undergone such heavy Taxes towards the maintaining of your Wars, that they are reduced to such incredible poverty, that they cannot so much as pay their rents for their Farms, nor aid the King, nor afford them selfe necessaries; and the King himself is impoverish'd, and the Lords become uneasie, and all the People faint; for a King cannot become poor, that has a rich People; nor can he be rich, whose People are poor. And all these mischiefs redound not to the King only, but also to all and singular the Peers of the Realm, in proportion: And all these mischiefs happen by means of the King's Evil Ministers, who have hitherto misgovern'd both the King & Kingdom; and if some course be not taken, the Kingdom of *England* will be miserably diminish'd sooner than we are aware. But there remains yet another part of our Message, which we have to impart to you on the behalf of your People. They find in an ancient Statute, and it has been done in fact not long ago, That if the King, through any Evil Counsel, or foolish Contumacy, or out of scorn, or some singular petulant Will of his own, or by any other irregular means, shall alienate himself from his

Regni

Regni Gubernari & Regulare, sed
capitose in suis infantis constitutis pro-
priae voluntatem suam singularem
proferre exercere, extrin licetum
est illi, cum communis assensu
& consensu Populi Regni ipsius
REGEM DE REGA-
LIISOLIO ABROGARE,
& propinqtiorem aliquem de stirpe
Regia loco eius in Regni solia subli-
mare. H. Knighton, Coll. 268*i.*

consent of the People of the Realm,
to depose that same King from his
Regal Throne, and to set up some other of the Royal Blood in his room.
H. Knighton, Coll. 268*i.*

No man can imagine that the *Lords* and *Commons* in *Parliament*
would have sent the *King* such a Message, and have quoted to him
an *Old Statute* for *deposing Kings* that would not govern according
to *Law*, if the *People of England* had then apprehended that an
obedience without reserve was due to the *King*, or if there had not
been such a *Statute* in being. And tho the *Record* of that *Excellent
Law* be lost, as the *Records* of almost all our *Ancient Laws* are, yet
is the *Testimony* of so Credible an *Historian*, who lived when these
things were transacted, sufficient to inform us, that such a *Law*
was then known and in being, and consequently that the *terms of
English Allegiance*, (according to the *Constitution of our Government*), are
different from what some *Modern Authors* would persuade us they
are.

This difference betwixt the said *King* and his *Parliaments* ended
amicably betwixt them, in the punishment of many *Evil Counsellors*, by whom the *King* had been influenced to commit many *Irr-
regularities in Government*.

But the *Discontents* of the *People* grew higher by his *After-ma-
nagement of Affairs*, and ended in the *Deposition* of that *King*, and
setting up of another, who was not the next *Heir in lineal suc-
cession*.

People, and shall refuse to be go-
vern'd and guided by the *Laws* of
the *Realm*, and the *Statutes* and
landable Ordinances thereof, toge-
ther with the wholsom Advice
of the *Lords* and *Great Men* of
his *Realm*, but persisting head-
strong in his own hare-brain'd
Councils, shall petulantly pro-
cute his own singular humour,
That then it shall be lawful for
them, with the common assent and

to depose that same *King* from his

Regal Throne, and to set up some other of the *Royal Blood* in his room.

H. Knighton, Coll. 268*i.*

The Articles against King Richard the Second may be read at large in A. Kyngton, Collector 2746, 2747, &c. and are yet extant upon Record. An Abridgment of them is in Cotton's Records, pag. 386, 387, 388. out of whom I observe these few, there being in all Thirty Three.

The First was, For making and bestowing the Lands of the Crown upon Unworthy Persons, and overcharging the Commons with Exactions. And that whereas certain Lords Spiritual and Temporal were assigned in Parliament to attend the Government of the Kingdom, the King by a Council of his own Accomplices endeavoured to impeach them of High-Treason, by bewitching and slandering them.

Another was, For that the King by undue means procured divers Subjects to speak against the Duke, to the destruction of the Duke of Gloucester, and the Earls of Arundel and Warwick at Shrewsbury.

Another, For that the King against his own Promise and Pardon at a solemn Procesion, apprehended the Duke of Gloucester, and sent him to Calice, there to be choked and smothered, beheading the Duke of Arundel, and banishing the Earl of Warwick, and the Lord Cobham.

Another, For that the King revolte, and a great number of him of Cheshire committed divers Murders, Rapes, and other Felonies, and refused to pay for their Victuals.

THE SUMMONS OF THE KING
AND OF THE DUKE, the Prelates
and Great Men of the Kingdom were Assem-
bled at *Winchester*, that they also might assent
to the Peace that was concluded, and unani-
mously swear to observe it.

In that *Parliament* the *Duke* was declared
King *Stephen's* adopted Son, and Heir of the
Kingdom, and the *King* to retain the Govern-
ment during his Life.

I observe only upon this Authority, That
there being a Controversie betwixt the King
and the Duke, which could no otherwise be
determined and settled but in a Parliament,
the Summons of this Parliament were issued
in the Names of both Parties concerned.

Quisquis habet aures ad audiendum, audiat.